



UNITED STATES DEPARTMENT OF COMMERCE

Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
| 08/835,105      | 04/04/97    | SCHULZE              | E 2937-9            |

DAVID F. ZINGER  
1700 LINCOLN STREET  
SUITE 3500  
DENVER CO 80203

LM01/1223

EXAMINER

NIMMO, J

ART UNIT

PAPER NUMBER

2766

DATE MAILED 12/23/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

08/835,105

Applicant(s)

Evertt E. Schulze Jr.

Examiner

James Nimmo

Group Art Unit

2766



☐ Responsive to communication(s) filed on \_\_\_\_\_

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-19 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-14 and 16-19 is/are rejected.

☒ Claim(s) 15 is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 2766

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

2. Claim 1 recites the limitation "said identification card" in line 21. There is insufficient antecedent basis for this limitation in the claim. For purposes of applying prior art, the examiner interpreted the term "identifying unit" in line 6 of claim 1 as "identification card". Claims 2-10 are rejected based their dependency.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

Art Unit: 2766

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 11-14, and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oyama.

A. In regards to claim 11, Oyama discloses a questionnaire system which uses an interactive apparatus that presents interactive survey questions to a consumer after inserting an ID card in said apparatus, see col. 15 lines 24-39. Oyama does not provide for a reward to consumers for a survey. It is well known to provide consumers a reward for participating in a survey. Further it is well known for the benefit to be a cash reward. It is obvious to modify Oyama's system to provide a reward since it would encourage consumers to participate in the survey. Oyama's system is a self-service system with apparatuses are located in open public places. It would be unsafe to have such apparatuses dispense cash at such locations. It would therefore have been obvious to one of ordinary skill in the art to have Oyama's apparatuses to provide a receipt for later redemption for cash.

Art Unit: 2766

Oyama also fails to disclose a telecommunication survey network to conduct surveys. It is well known that retail stores distribute ID cards to consumers who respond to a survey. However, there is no evidence that these surveys are conducted by a telecommunications network means. Further the examiner asserts that it is well known to use a telecommunication network to conduct surveys (e.g. an operator place or takes a call from a participant in a survey). The examiner asserts that it would have been obvious to use the telecommunication network to conduct surveys for ID cards. One of ordinary skill in the art would have been motivated to do so in order to make it more convenient for consumers to take the surveys. It would have been obvious that organizations that collected demographic information would want all survey information stored in order to correlate the type of people receiving the ID cards to find out what they are buying in the stores.

B. In regards to claim 12, it is well known that more someone is paid, the more that person is willing to cooperate. Therefore, it is obvious to repeat the steps mentioned in claim 11 for further benefit to elicit further cooperation from the consumer.

C. In regards to claim 13, it is well known that ID cards provided by retail store are use to give consumers at these stores benefits. These retail stores often require the consumer to provide such information such as the consumer's name and address. It is obvious that some of the information (i.e. the consumer's name which makes the ID card non-transferable) on the cards would be used to determined which benefits are given to the consumer.

Art Unit: 2766

D. In regards to claim 14, it is obvious to modify Oyama's system such that the interactive apparatus's memory card (see Fig. 1) communicates directly (i.e. via modem) with data storage means to make it more convenient to analyze the said data. The examiner asserts that it would be more convenient for the consumer to have the data from the telecommunication survey questions directly to the storage means via the previously mentioned operator.

E. As for claim 16, it is obvious that organizations for which demographic data is collected desire all data stored for analyzes. Therefore, it is obvious that data obtained from the consumer when the consumer initiates supplemental survey questions would be stored by the storage means such that the data can be analyzed.

F. In regards to claim 17, it would have been obvious that organizations that collected demographic information would want all survey information stored in order to correlate the type of people receiving the identification cards to find out what they are buying in the stores.

G. In regards to claim 18, it was shown in the discussion on claim 11 that for safety reasons a voucher in the form of receipt could be issued by the said interactive apparatus for later redemption for cash.

H. As for claim 19, it would have been obvious that someone who provides additional services receives a larger reward (benefit) for those additional services. By answering survey questions, the consumer is providing a service for the surveyor. Since answering survey questions is a form of service, it is reasonable to offer a consumer a cash benefit for answering survey questions as an incentive for a consumer to participate in a survey. Therefore, one of ordinary skill

Art Unit: 2766

in the art would naturally allot a consumer an additional cash benefit for answering additional survey questions.

*Allowable Subject Matter*

6. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The inclusion of written survey questions that is different from the said telecommunications survey questions as a limitation in claim 15 was found to be novel.

7. Claims 1-10 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action. The inclusion of a written survey questions in claim 1 was found to be novel.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Nimmo whose telephone number is (703) 305-0221. The examiner can normally be reached on Monday-Friday from 8:00 a.m. to 4:30 p.m.

Art Unit: 2766

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gail Hayes, can be reached on (703) 305-9711. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-3297.

James Nimmo

December 2, 1998

*J. N.*

*Gail Hayes*  
GAIL O. HAYES  
SUPERVISORY PATENT EXAMINER  
GROUP 2700